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Last Updated: 04/10/2024

UNCLASSIFIED

MONTREAL 3047

VZCZCMTI *
OO RUEHC
DE RUEHMT #3047/01 258 **
ZNR UUUUU ZZH
O 151840Z SEP 87
FM AMCONSUL MONTREAL
TO SECSTATE WASHDC IMMEDIATE 8545
BT
UNCLAS MONTREAL 03047

CLASS: UNCLASSIFIED
CHRG: ICAO:9/15/87
APPRV: ICAO:DSCHIELE
DRFTD: ICAO:SBUTCHER:M
CLEAR: ICAO:RBENEDICK
DISTR: ICAO CG ECON

FROM USMISSION ICAO

DEPT. FOR OES, J. NEGROPONTE AN PASS TO WHITE
HOUSE/DPC, R. BLEDSOE, EPA, USTR, COMMERCE, ENERGY.

E.O. 12356: N/A

TAGS: SENV, ETRD, UNEP

SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)
-- STATUS REPORT

REF: A) MONTREAL 2997 B) MONTREAL 3027

1. FOLLOWING IS STATUS AS OF 11:00 TUESDAY
FOLLOWING LATE-NIGHT AND EARLY MORNING MEETINGS.

2. ENTRY INTO FORCE AND VOTING: THE US
DELEGATION HAS TAKEN A STRONG STAND ON THESE
ISSUES, BUT FACED STRONG OPPOSITION.
RESOLUTION OF ALL OTHER ISSUES APPEARS TO BE
WITHIN REACH. ATMOSPHERE DEVELOPING IS THAT IF
THE NEGOTIATIONS STALEMATE ON THIS ISSUE, ALL
FINGERS WILL POINT AT U.S. THE USG THEREFORE
NOW NEEDS TO DECIDE WHETHER WE CAN ACCEPT THE
FOLLOWING PACKAGE:

ART. 15 (ENTRY INTO FORCE): ELEVEN COUNTRIES
REPRESENTING TWO-THIRDS OF GLOBAL CONSUMPTION:

ART. 2, PARA 4 (TO CHANGE THE FIFTY PERCENT
REDUCTION): TWO-THIRDS OF PARTIES REPRESENTING
TWO-THIRDS OF PARTIES' CONSUMPTION;

ART. 2, PARA 5 (FURTHER ADJUSTMENTS AND
REDUCTIONS): DECISIONS, WHICH WOULD BE BINDING
ON ALL PARTIES, REQUIRE TWO-THIRDS OF PARTIES
REPRESENTING FIFTY PERCENT OF PARTIES'
CONSUMPTION:

ART. 2, PARA 5BIS (ADDITION OF CHEMICALS):
TWO-THIRDS OF PARTIES. NO REQUIREMENT FOR A
PERCENTAGE OF CONSUMPTION IS NEEDED. ADDITION
OF CHEMICALS WOULD BE SUBJECT TO ARTICLE 9 OF
THE CONVENTION, AND THUS WOULD BE BINDING ONLY
ON PARTIES WHICH RATIFY THE AMENDMENT.

2. REIO: PARTICIPANTS CONSIDER THIS A MATTER
TO BE WORKED OUT BETWEEN THE U.S. AND EC. IN
DISCUSSIONS WITH REPRESENTATIVES OF EC

UNCLASSIFIED

MONTREAL 3047

PRESERVATION COPY

COMMISSION AND MEMBER STATES, WE HAVE DEVELOPED LANGUAGE WHICH WOULD PROVIDE THAT PARTIES WHICH ARE MEMBERS OF A REIO MAY JOINTLY FULFIL THEIR OBLIGATIONS UNDER ARTICLE 2 RESPECTING CONSUMPTION PROVIDED (1) THAT THEIR TOTAL COMBINED CALCULATED CONSUMPTION DOES NOT EXCEED THE LEVELS REQUIRED BY ART. 2; (2) THAT ALL MEMBER STATES OF THE REIO ARE PARTIES TO THE PROTOCOL; AND (3) THAT THE ORGANIZATION HAS NOTIFIED THE SECRETARIAT OF THE MANNER IN WHICH IT WILL IMPLEMENT THIS PROVISION.

5. GRANDFATHER CLAUSE FOR PRODUCTION PLANNED BEFORE ADOPTION OF THE PROTOCOL: SOVIETS WOULD AGREE TO DROP ALL ART. 2 BRACKETED REFERENCES TO 1990 IF THE FOLLOWING ADDITIONAL PARAGRAPH IS ADDED:

QUOTE A PARTY NOT OPERATING UNDER ARTICLE 5 THAT HAS FACILITIES FOR THE PRODUCTION OF CONTROLLED SUBSTANCES LISTED IN ANNEX A UNDER CONSTRUCTION OR CONTRACTED FOR PRIOR TO 16 SEPTEMBER 1987, AND PROVIDED FOR IN NATIONAL LEGISLATION PRIOR TO 1 JANUARY 1987, MAY ADD THE PRODUCTION FROM SUCH FACILITIES TO ITS 1986 BASE FOR PURPOSES OF THIS ARTICLE, PROVIDED THAT SUCH FACILITIES ARE COMPLETED BY 31 DECEMBER 1990 AND THAT SUCH PRODUCTION DOES NOT RAISE THE ANNUAL PER CAPITA CONSUMPTION OF THE CONTROLLED SUBSTANCES OF THE PARTY ABOVE 0.5 KG. END QUOTE

THIS WOULD PROVIDE AN INCENTIVE FOR THE USSR, SOUTH KOREA AND MALAYSIA TO JOIN THE PROTOCOL AND THEREFORE BE OBLIGATED TO REDUCE CONSUMPTION BY 50 PERCENT BY 1999, ALONG WITH THE DEVELOPED COUNTRIES. IF THEY DID NOT JOIN THE PROTOCOL, THEY WOULD NOT BE LIMITED AT ALL. WHILE SOUTH KOREA AND MALAYSIA WOULD IN THAT CASE BE HIT BY THE TRADE ARTICLE, THE USSR, WHICH DOES NOT EXPORT OUTSIDE THE EAST BLOC, WOULD NOT BE AFFECTED BY THE TRADE ARTICLE. THE HEAD USSR REPRESENTATIVES STATES IN A MEETING WITH OVER A DOZEN OTHER DELEGATION HEADS THAT WITH THIS

PARAGRAPH, THE SOVIETS COULD SIGN THE PROTOCOL.

THIS PROVISION IS BEING SUBMITTED TO AFTERNOON
PLENARY AS PROPOSED BY CONFERENCE PRESIDENT
LANG, AND IS LIKELY NOT BE BE OPPOSED.

6. TRADE/DEVELOPING COUNTRIES: NO CHANGE IN
PACKAGE DESCRIBED IN REF A, PARA 6.

7. EFFECTIVE DATES: INTENSE DISCUSSION
DEVELOPED WHEN IT BECAME CLEAR THAT THE EC
INTERPRETED ARTICLE 2 REQUIREMENTS TO BE
EFFECTIVE ONLY IN THE YEAR FOLLOWING THE
INDICATED DATE (E.G., WE INTERPRETED REQUIREMENT
FOR A 20 PERCENT REDUCTION QUOTE BY JANUARY 1,
1994 UNQUOTE AS MEANING THAT FULL-YEAR 1993
CONSUMPTION HAD TO BE 20 PERCENT BELOW 1986
LEVEL; EC INTERPRETED IT TO MEAN FULL-YEAR 1994
CONSUMPTION HAD TO BE 20 PERCENT BELOW 1986).
RESULT WAS TO SPLIT THE DIFFERENCE -- NEW TEXT
WILL BE CLEAR THAT EFFECTIVE YEAR FOR
CALCULATING THE FREEZE IS THE TWELVE MONTHS
BEGINNING ON THE FIRST DAY OF THE SEVENTH MONTH
AFTER EIF: FOR THE PARA 3 (20 PERCENT) REDUCTION
IT WOULD BE JULY 1, 1993-JUNE 30, 1994; AND FOR
THE PARA 4 (50 PERCENT) REDUCTION IT WOULD BE
JULY 1, 1998-JUNE 30, 1999. STOHR

<DIST>
SIT: EOB VAX
<PREC> IMMEDIATE <CLAS> UNCLASSIFIED <OSRI> RUEHMT <DTG> 151840Z SEP 87
<ORIG>FM AMCONSUL MONTREAL
<TO>TO SECSTATE WASHDC IMMEDIATE 8545
<SUBJ>SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)
-- STATUS REPORT

<TEXT>BT
UNCLAS SECTION 01 OF 02 MONTREAL 03047
FROM USMISSION ICAO
DEPT. FOR OES, J. NEGROPONTE AN PASS TO WHITE
HOUSE/DPC, R. BLEDSOE, EPA, USTR, COMMERCE, ENERGY.
E.O. 12356: N/A
TAGS: SENV, ETRD, UNEP
SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)
-- STATUS REPORT

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RESOLUTION OF ALL OTHER ISSUES APPEARS TO BE
WITHIN REACH. ATMOSPHERE DEVELOPING IS THAT IF
THE NEGOTIATIONS STALEMATE ON THIS ISSUE, ALL
FINGERS WILL POINT AT U.S. THE USG THEREFORE
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REDUCTION): TWO-THIRDS OF PARTIES REPRESENTING
TWO-THIRDS OF PARTIES' CONSUMPTION;
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TO BE WORKED OUT BETWEEN THE U.S. AND EC. IN
DISCUSSIONS WITH REPRESENTATIVES OF EC
COMMISSION AND MEMBER STATES, WE HAVE DEVELOPED
LANGUAGE WHICH WOULD PROVIDE THAT PARTIES WHICH
ARE MEMBERS OF A REIO MAY JOINTLY FULFIL THEIR
OBLIGATIONS UNDER ARTICLE 2 RESPECTING
CONSUMPTION PROVIDED (1) THAT THEIR TOTAL
COMBINED CALCULATED CONSUMPTION DOES NOT EXCEED
THE LEVELS REQUIRED BY ART. 2; (2) THAT ALL
MEMBER STATES OF THE REIO ARE PARTIES TO THE
PROTOCOL; AND (3) THAT THE ORGANIZATION HAS

~ Have all obstacles
been removed?

- Will we sign?

✓ Call Fran for Martin

✓ Memo to (P)

Explain Soviet exception
EIF - 67% = 80% of P
Signing of EC on the

NOTIFIED THE SECRETARIAT OF THE MANNER IN WHICH IT WILL IMPLEMENT THIS PROVISION.

5. GRANDFATHER CLAUSE FOR PRODUCTION PLANNED BEFORE ADOPTION OF THE PROTOCOL: SOVIETS WOULD AGREE TO DROP ALL ART. 2 BRACKETED REFERENCES TO 1990 IF THE FOLLOWING ADDITIONAL PARAGRAPH IS ADDED:

QUOTE A PARTY NOT OPERATING UNDER ARTICLE 5 THAT HAS FACILITIES FOR THE PRODUCTION OF CONTROLLED SUBSTANCES LISTED IN ANNEX A UNDER CONSTRUCTION OR CONTRACTED FOR PRIOR TO 16 SEPTEMBER 1987, AND PROVIDED FOR IN NATIONAL LEGISLATION PRIOR TO 1 JANUARY 1987, MAY ADD THE PRODUCTION FROM SUCH FACILITIES TO ITS 1986 BASE FOR PURPOSES OF THIS ARTICLE, PROVIDED THAT SUCH FACILITIES ARE COMPLETED BY 31 DECEMBER 1990 AND THAT SUCH PRODUCTION DOES NOT RAISE THE ANNUAL PER CAPITA CONSUMPTION OF THE CONTROLLED SUBSTANCES OF THE PARTY ABOVE 0.5 KG. END QUOTE THIS WOULD PROVIDE AN INCENTIVE FOR THE USSR, SOUTH KOREA AND MALAYSIA TO JOIN THE PROTOCOL AND THEREFORE BE OBLIGATED TO REDUCE CONSUMPTION BY 50 PERCENT BY 1999, ALONG WITH THE DEVELOPED COUNTRIES. IF THEY DID NOT JOIN THE PROTOCOL, THEY WOULD NOT BE LIMITED AT ALL. WHILE SOUTH KOREA AND MALAYSIA WOULD IN THAT CASE BE HIT BY THE TRADE ARTICLE, THE USSR, WHICH DOES NOT EXPORT OUTSIDE THE EAST BLOC, WOULD NOT BE AFFECTED BY THE TRADE ARTICLE. THE HEAD USSR REPRESENTATIVES STATES IN A MEETING WITH OVER A DOZEN OTHER DELEGATION HEADS THAT WITH THIS

BT
#3047

BT
UNCLAS SECTION 02 OF 02 MONTREAL 03047
FROM USMISSION ICAO

DEPT. FOR OES, J. NEGROPONTE AND PASS TO WHITE HOUSE/DPC, R. BLEDSOE, EPA, USTR, COMMERCE, ENERGY.

E.O. 12356: N/A

TAGS: SENV, ETRD, UNEP

SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL) PARAGRAPH, THE SOVIETS COULD SIGN THE PROTOCOL. THIS PROVISION IS BEING SUBMITTED TO AFTERNOON PLENARY AS PROPOSED BY CONFERENCE PRESIDENT LANG, AND IS LIKELY NOT TO BE OPPOSED.

6. TRADE/DEVELOPING COUNTRIES: NO CHANGE IN PACKAGE DESCRIBED IN REF A, PARA 6.

7. **EFFECTIVE DATES:** INTENSE DISCUSSION DEVELOPED WHEN IT BECAME CLEAR THAT THE EC INTERPRETED ARTICLE 2 REQUIREMENTS TO BE EFFECTIVE ONLY IN THE YEAR FOLLOWING THE INDICATED DATE (E.G., WE INTERPRETED REQUIREMENT FOR A 20 PERCENT REDUCTION QUOTE BY JANUARY 1, 1994 UNQUOTE AS MEANING THAT FULL-YEAR 1993 CONSUMPTION HAD TO BE 20 PERCENT BELOW 1986 LEVEL; EC INTERPRETED IT TO MEAN FULL-YEAR 1994 CONSUMPTION HAD TO BE 20 PERCENT BELOW 1986). RESULT WAS TO SPLIT THE DIFFERENCE -- NEW TEXT WILL BE CLEAR THAT EFFECTIVE YEAR FOR CALCULATING THE FREEZE IS THE TWELVE MONTHS

BEGINNING ON THE FIRST DAY OF THE SEVENTH MONTH
AFTER EIF: FOR THE PARA 3 (20 PERCENT) REDUCTION
IT WOULD BE JULY 1, 1993-JUNE 30, 1994; AND FOR
THE PARA 4 (50 PERCENT) REDUCTION IT WOULD BE
JULY 1, 1998-JUNE 30, 1999. STOHR

BT

#3047

<SECT>SECTION: 01 OF 02 <SSN> 3047 <TOR> 870915150038 MSG000180025238

<SECT>SECTION: 02 OF 02 <SSN> 3047 <TOR> 870915150121 MSG000180025281

<DIST>
SIT: EOB VAX
<PREC> IMMEDIATE <CLAS> UNCLASSIFIED <OSRI> RUEHMT <DTG> 141723Z SEP 87

<ORIG>FM AMCONSUL MONTREAL

<TO>TO SECSTATE WASHDC IMMEDIATE 8536

<SUBJ>SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL) --
STATUS REPORT

<TEXT>BT
UNCLAS SECTION 01 OF 02 MONTREAL 03027
FROM USMISSION ICAO
DEPT. FOR OES, J. NEGROPONTE AND PASS TO WHITE
HOUSE/DPC, R. BLEDSOE, EPA, USTR, COMMERCE, ENERGY.
E.O. 12356: N/A
TAGS: SENV, ETRD, UNEP
SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL) --
STATUS REPORT
REF: MONTREAL 2997
~BEGIN SUMMARY~
1. SUMMARY: PROGRESS WAS MADE OVER WEEKEND PRIOR TO
DIPLOMATIC CONFERENCE, PARTICULARLY IN TRADE AND LDC
AREAS. NO MAJOR CHANGE ON EIF, REIO AND SOVIET
ISSUES. CURRENT STATUS IS AS FOLLOWS, KEYED TO DRAFT
MONTREAL PROTOCOL FAXED THIS A.M..
2. CONTROL ARTICLE: ALTHOUGH 1986 BASE YEAR IS
PREFERRED OPTION FOR NEARLY ALL PARTICIPANTS, 1990 IS
STILL IN BRACKETS AT REQUEST OF SOVIETS. (SOVIET
PROBLEM REMAINS AS DESCRIBED REFTTEL.) ARTICLE CALLS
FOR FREEZE IN 1989; 20 PERCENT REDUCTION BY 1994; 50
PERCENT REDUCTION BY 1999. FORMULA REMAINS
CONSUMPTION-BASED WITH HIGHER PRODUCTION LEVELS
ALLOWED. PROTOCOL COVERS CFCS 11, 12, 113, 114 AND
115. HALONS ARE IN PROTOCL, AND FROZEN AT 1986
LEVELS 3 YEARS AFTER ENTRY INTO FORCE.
3. ENTRY INTO FORCE: ISSUE IS STILL UNRESOLVED AND
PERCENTAGE IS BRACKETED AS 0 PERCENT, 60 PERCENT, 90
PERCENT. THERE IS APPRECIATE OF U.S. VIEW ON
PERCENTAGE REQUIREMENT, ALTHOUGH STRONG OPPOSITION TO
90 PERCENT. SENTIMENT IS BUILDING TO BASE THIS ON
CONSUMPTION (RATHER THAN PRODUCTION) TO SYMBOLIZE
STAKE OF CONSUMER COUNTRIES AS WELL.
4. REIO: INFORMAL DISCUSSIONS WITH THE EC AND,
~END SUMMARY~
SEPARATELY WITH SOME EC-MEMBER COUNTRIES, REVEAL SOME
PREDISPOSITON TO CONSIDER CHANGES IN LANGUAGE OF EC'S
PROPOSAL ON REIOS, BUT OPPOSITION TO TOTAL DELETION
OF PROVISION DUE TO THEIR CONCERN ABOUT RESTRICTIONS
ON TRADE AMONG MEMBER STATES THAT ARE PARTY TO THE
PROTOCOL.
5. VOTING: WEIGHTED VOTING (ARTICLE 2, PARAS. 4, 5,
AND 5 BIS) STILL SHOWN AS QUOTE TWO-THIRDS MAJORITY
OF PARTIES REPRESENTING (0 PERCENT) (60 PERCENT)
(TWO-THIRDS) OF THE TOTAL CALCULATED CONSUMPTION
LEVEL. NORDICS ARE IN LEAD IN BUILDING PRESSURES
AGAINST ANY WEIGHTED VOTING REQUIRMENT HERE. ARTICLE
2, PARA. 5 STILL PROVIDES FOR WEIGHTED VOTING
(BRACKETED) ON ADJUSTMENTS TO REDUCTION SCHEDULE AND

TO CALCULATED OZONE DEPLETION POTENTIALS, WHICH WOULD BE BINDING ON ALL PARTIES PARA. 5(C) AND 5 (D). ARTICLE 2, PARA. 5 BIS PROVIDES FOR WEIGHTED VOTING (BRACKETED) ON ADDITIONS OR REMOVAL OF SUBSTANCES FROM CONTROLS. HOWEVER, REFERENCE HERE TO ARTICLE 9 OF CONVENTION MEANS THAT INDIVIDUAL PARTIES WOULD HAVE TO RATIFY DECISIONS ON NEW CHEMICALS (I.E. IT IS NOT AUTOMATICALLY BINDING ON PARTIES).

6. COMPLIANCE AND REPORTING: ARTICLE 7 BIS PROVIDES THAT PARTIES WILL AT THEIR FIRST MEETING CONSIDER AND APPROVE PROCEDURES AND MECHANISMS FOR DETERMINING NON-COMPLIANCE. THIS PROTECTS CONCEPT THAT PARTIES IN NON-COMPLIANCE WOULD BE TREATED AS NON-PARTY, AS THIS WOULD, IN ANY EVENT, NEED TO BE INSTITUTIONALIZED AT PARTIES' FIRST MEETING WHETHER OR NOT IT FORMALLY APPEARS IN ARTICLE 7 BIS. GENERAL SENTIMENT (TOLBA AND OTHER DELEGATIONS) IS THAT ATTEMPT TO INSIST ON MORE EXPLICIT REFERENCE HERE WOULD ONLY TRIGGER EXTENSIVE AND UNPRODUCTIVE DISCUSSION. U.S. INTENDS TO MAKE DECLARATION EMPHASIZING THAT TREATMENT AS NON-PARTIES IS TRADITIONAL PRACTICE ACCORDING TO VIENNA CONVENTION ON TREATIES AND THAT WE CONSIDER IT WOULD ALSO APPLY TO THIS PROTOCOL; THIS DECLARATION WOULD BECOME PART OF FINAL ACT. REPORTING OF DATA NOW SHOWN DUE QUOTE NINE MONTHS AFTER THE END OF THE YEAR TO WHICH THE DATA RELATE UNQUOTE.

7. TRADE AND LDCS: FOLLOWING HARD NEGOTIATIONS, SIGNIFICANT PROGRESS WAS MADE. PROVISIONAL ENDORSEMENT BY U.S., EC, JAPAN AND SEVERAL LDC DELEGATIONS WAS ACHIEVED ON THE FOLLOWING PACKAGE:.

- REFERENCE TO EXPORTS DROPPED IN PARAGRAPH 1 OF ARTICLE 4.

- NEW PARAGRAPH (1 BIS) ADDED TO ARTICLE 4 BANNING

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#3027

BT

UNCLAS SECTION 02 OF 02 MONTREAL 03027

FROM USMISSION ICAO

DEPT. FOR OES, J. NEGROPONTE AND PASS TO WHITE HOUSE/DPC, R. BLEDSOE, EPA, USTR, COMMERCE, ENERGY.

E.O. 12356: N/A

TAGS: SENV, ETRD, UNEP

SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL) -- BULK EXPORTS FROM ANY LDC PARTY TO ANY NON-PARTY BEGINNING IN 1993.

- SPECIAL LDC EXEMPTION (I.E. REFERENCE TO ARTICLE 5) IN PARAGRAPH 7 OF ARTICLE 4 DELETED.

- CLAUSE ADDED TO ARTICLE 3 (CALCULATION OF CONTROL LEVELS) PROVIDING THAT, BEGINNING JANUARY 1, 1993, ONLY EXPORTS TO PARTIES CAN BE SUBTRACTED FROM PRODUCTION IN CALCULATING CONSUMPTION LEVEL.

- 0.3 KG. PER CAPITA ACCEPTED AS LOW-CONSUMING DEVELOPING COUNTRY CEILING IN ARTICLE 5, WITH 10 YEARS AS LENGTH OF GRACE PERIOD.

- TUNISIAN PROPOSAL IN ARTICLE 5 FOR GUARANTEED PRODUCTION RIGHTS DROPPED.

STOHR

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#3027

<SECT>SECTION: 01 OF 02 <SSN> 3027 <TOR> 870914135629 MSG000179934989
<SECT>SECTION: 02 OF 02 <SSN> 3027 <TOR> 870914135659 MSG000179935018

Article 10)
- amount, 3 KG?
- amount, 3 KG?
- amount, 3 KG?

Article 11)
- amount, 3 KG?
- amount, 3 KG?
- amount, 3 KG?

Distr.
LIMITED

UNEP/IG.79/3/Rev.2
11 September 1987
Original: ENGLISH

Conference of Plenipotentiaries on the
Protocol on Chlorofluorocarbons to the
Vienna Convention for the Protection of
the Ozone Layer

Montreal, 14-16 September 1987

Trade
Removal Article 5 - (major issues will be dealt with)
20% / 50% (reduced voting - 1/2 of parties)
100% / 100% (reduced voting - 1/2 of parties)

Eighth Draft Protocol on Substances that Deplete the Ozone Layer



United Nations
Environment
Programme



Distr.
LIMITED



Plen
4-7 Sat

UNEP/IG.79/3/Rev.1 PS./CRP/15
10 September 1987

ORIGINAL: ENGLISH

Preliminary Session to the
Conference of Plenipotentiaries on the
Protocol on Chlorofluorocarbons to the
Vienna Convention for the Protection of
the Ozone Layer

Montreal, 8 - 11 September 1987

Proposals from Dr. Tolba arising from informal consultations, 10 September 1987

Preamble

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone
Layer, adopted at Vienna on 22nd March 1985,

Mindful of their obligation under that Convention to take appropriate
measures to protect human health and the environment against adverse effects
resulting or likely to result from human activities which modify or are likely
to modify the ozone layer,

Recognizing that world-wide emissions of ozone depleting substances can
significantly deplete and otherwise modify the ozone layer, which is likely to
result in adverse effects on human health and the environment,

Recognizing also the potential climatic effects of ozone depleting
substances emissions,

Determined to protect the ozone layer by taking precautionary measures
to control total global emissions of ozone depleting substances with the
ultimate objective of their elimination on the basis of developments in
scientific knowledge, taking into account technical and economic
considerations,

Mindful of the precautionary measures for controlling emissions of
ozone depleting substances that have already been taken at the national and
regional levels,

Aware that measures taken to protect the ozone layer from modifications
due to the use of ozone depleting substances should be based on relevant
scientific knowledge, taking into account technical and economic
considerations,

Mindful that special provisions needs to be made in regard to the
production and use of ozone depleting substances for the needs of developing
low-consuming countries,

EIGHTH DRAFT PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

PREAMBLE

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer,

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,

Conscious of the potential climatic effects of emissions of these substances,

Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,

Determined ^{equitably} to protect the ozone layer by taking precautionary measures to control total global emissions of substances that deplete it, with the ultimate objective of their elimination, on the basis of developments in scientific knowledge, taking into account technical and economic considerations,

Acknowledging that special provisions ~~needs~~ are required to meet the needs of developing countries for these substances,

Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,

Considering the importance of promoting international co-operation in the research and development of science and technology relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind, in particular, the needs of developing countries,

HAVE AGREED AS FOLLOWS:

ARTICLE 1: DEFINITIONS

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22nd March 1985;
2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol;
3. "Secretariat" means the secretariat of the Convention;
4. "Controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture. It excludes, however, any such substance or mixture which is in a manufactured product other than a container used for the transportation or storage of the substance listed;
5. "Production" means the amount of controlled substances produced minus the amount destroyed by technologies to be approved by the Parties;
6. "Consumption" means production plus imports minus exports of controlled substances *minus the amount destroyed*.
It be one of other
7. "Calculated levels" of production, imports, exports and consumption means levels determined in accordance with Article 3.
8. *Industrial* "Rationalization" means the transfer of existing production between Parties for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

ARTICLE 2: CONTROL MEASURES

ARTICLE 2BIS: LATER JOINING PARTIES

Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after its entry into force, shall fulfil forthwith the sum of the obligations under Article 2 as well as under Article 4 that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force.

ARTICLE 3: CALCULATION OF CONTROL LEVELS

For the purposes of Articles 2 and 5 each Party shall, for each Group of substances in Annex A, determine its calculated levels of:

- (a) production of the controlled substances, by:
 - (i) multiplying its annual production of each controlled substance by the ozone depleting potential specified in respect of it in Annex A; and
 - (ii) adding together, for each such Group, the resulting figures;
- (b) imports and exports, respectively, of the controlled substances by following, mutatis mutandis, the procedure set out in subparagraph (a); and
- (c) consumption of the controlled substances, by adding together its calculated levels of production and imports and subtracting its calculated level of exports as determined in accordance with subparagraphs (a) and (b). Beginning in the [] year after entry into force of this Protocol, only exports to Parties shall be subtracted in calculating each Party's consumption level.

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES

1. Within one year of the entry into force of this Protocol, each Party shall ban the import [and export] of the controlled substances from [and to] any State not Party to this Protocol.
2. Within three years of the entry into force of this Protocol, the Parties shall, in accordance with Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances. Within one year of the annex having become effective, Parties not ^{having} objecting to it shall ban the import of such products from any State not Party to this Protocol.
3. Within five years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting, from States not Party to this Protocol, the import of products produced with, but not containing, controlled substances. If determined feasible, the Parties shall, in accordance with Article 10 of the Convention, elaborate in an annex a list of such products and within one year of the annex having become effective, Parties not objecting to it shall ban or restrict the import of the products from any State not Party to this Protocol.
4. Each Party shall discourage the export, to any State not Party to this Protocol, of technology for producing and utilizing the controlled substances.
5. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not Party to this Protocol of products, equipment, plants or technology that would facilitate the production of the controlled substances.
6. Paragraphs 4 and 5 shall not apply to ~~environmentally sound~~ products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of the controlled substances, promote the development of alternative substances or otherwise contribute to the reduction of emissions of ~~such~~ ^{the controlled} substances.
7. Notwithstanding the provisions of this Article:
 - (a) in view of the special situation of the developing countries, paragraph 1 shall not apply to imports from or exports to such developing countries that are [not Parties] [Signatories] to this Protocol for a period of [four] [three] years after its entry into force; and
 - (b) imports [and exports] referred to in paragraphs 1, 2 and 3 may be permitted from [and to] any State [not Party] [Signatories] to this Protocol if that State is determined by a meeting of the Parties to be in full compliance with Article 2, or Article 5, as the case may be, and this Article, and has submitted data to that effect, as specified in Article 7.

should come out

ARTICLE 5: SPECIAL SITUATION OF DEVELOPING COUNTRIES

1. Any developing country Party whose annual calculated level of consumption of the controlled substances is less than [0.2] [0.3] kg. per capita on the date of the entry into force of the Protocol for it or any time thereafter within ten years of the date of entry into force of the Protocol shall, in order to meet its basic domestic needs, be entitled to delay its compliance with the control measures set out in paragraphs 1 to 4 of Article 2 by ten years after that specified in those paragraphs, provided that such party shall not exceed an annual calculated level of consumption [production] of [0.2] [0.3] kg. per capita. Any such country shall be entitled to use the average of its annual calculated level of consumption [production] for the period 1995 to 1997 inclusive or the average of its annual calculated level of consumption of [0.2] [0.3] kg. per capita in those years, whichever is the lower, as the basis for its compliance with the control measures.

1.bis [A developing country Party may have transferred to it from any other developing country Party or Parties production in excess of the limits set out in paragraph 1 provided that the total combined calculated level of production of these Parties does not exceed the production limitations set out in this Article.]*

1.ter Notification of any transfer of production pursuant to paragraph 1.bis shall be made to the secretariat forthwith.

2. The Parties undertake to facilitate access to environmentally safe alternative substances and technology to developing country Parties and assist them to make expeditious use of such alternatives.

3. The Parties undertake to facilitate bilaterally or multilaterally the provision of subsidies, aid, credits, guarantees or insurance programmes to developing country Parties for the use of alternative technology and substitute products.

* This paragraph is in square brackets awaiting a determination regarding whether the phrase "production" will be incorporated as a limitation in paragraph 1.

ARTICLE 6: REVIEW AND ASSESSMENT OF CONTROL MEASURES

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 on the basis of available scientific, environmental, technical, and economic information. At least one year before each assessment, the Parties shall convene ~~one or more~~ *appropriate* panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the secretariat, to the Parties.

ARTICLE 7: REPORTING OF DATA

1. Each Party shall provide to the secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances for the year 1986 or the best possible estimates of the data where actual data are not available.
2. Each Party shall provide statistical data to the secretariat on its annual production, exports, and imports of these substances for the year during which it becomes a Party and for each year thereafter. It shall forward the data no later than ~~six months~~ ^{twelve} after the end of the year to which the data relate.

ARTICLE 7BIS: NON-COMPLIANCE

At their first regular meeting, the Parties shall consider ^{and approve} procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.

Add statement on sanctions for non-compliance.

**ARTICLE 8: RESEARCH, DEVELOPMENT, PUBLIC AWARENESS
AND EXCHANGE OF INFORMATION**

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:

- (a) best technologies for improving the containment, recovery, recycling or destruction of the controlled substances or otherwise reducing their emissions;
- (b) possible alternatives to the controlled substances, to products containing such substances, and to products manufactured with them;
- (c) costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of the controlled substances and other substances that deplete the ozone layer.

3. Within two years of the entry into force of this protocol and every two years thereafter, each Party shall submit to the secretariat a summary of the activities it has conducted pursuant to this Article.

ARTICLE 9: TECHNICAL ASSISTANCE

1. The Parties shall co-operate, taking into account in particular the needs of developing countries, in promoting, in the context of the provisions of Article 4 of the Convention, technical assistance to facilitate participation in and implementation of this Protocol.

2. Any Party or Signatory to this Protocol in need of technical assistance for the purposes of implementing or participating in it, may submit a request to the secretariat.

3. At their first meeting, the Parties shall begin deliberations on the means of fulfilling the obligations set out in Article 8 above, and paragraphs 1 and 2 of this Article including the preparation of workplans. Such workplans shall pay special attention to the needs and circumstances of the developing countries. States and regional economic integration organizations not party to the Protocol should be encouraged to participate in activities specified in such workplans.

ARTICLE 10: MEETINGS OF THE PARTIES

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.

2. Subsequent ordinary meetings of the Parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. At their first meeting the Parties shall:

- (a) adopt by consensus rules of procedure for their meetings;
- (b) begin preparation of workplans pursuant to paragraph 3 of Article 9;
- (c) adopt ~~[by consensus]~~ ^[by unanimity] the financial rules required by paragraph 2 of Article 12.
- (d) ~~begin deliberations to consider~~ ^{and approve} the procedures and institutional mechanisms specified in Article 7 ^{bis}.
- (e) establish the panels and terms of reference ^{referred to in} ~~called for by~~ Art. 6.

4. The functions of the meetings of the Parties shall be to:

- (a) review the implementation of this Protocol;
- (a) bis decide on the adjustments referred to in paragraph 5 of Article 2;
- (a) ter decide on the addition to, insertion in or removal from annexes of substances and on related control measures in accordance with paragraph 5 bis of Article 2;
- (b) establish where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 8;
- (c) review requests for technical assistance submitted pursuant to paragraph 2 of Article 9;
- (d) review reports prepared by the secretariat pursuant to Article 11 (c);

- (e) assess, in accordance with Article 6, the control measures provided for in Article 2;
- (f) consider and adopt as required proposals for amendment of this Protocol [in conformity with Articles 9 and 10 of the Convention];
- (g) consider and adopt the budget for implementation of this Protocol;
- (h) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. [The Parties shall decide within [two] years of entry into force of this Protocol how to count exports to countries not party to the Protocol].

6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

ARTICLE 11: SECRETARIAT

For the purposes of this Protocol the secretariat shall:

- (a) arrange for and service meetings of the Parties as provided for in Article 10;
- (b) receive and make available, upon request by a Party data provided pursuant to Article 7;
- (c) prepare and distribute to the Parties regularly reports based on information received pursuant to Articles 7 and 8;
- (d) notify the Parties of any request for technical assistance received pursuant to Article 9 so as to facilitate the provision of such assistance;
- (e) encourage non-parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of the Protocol;
- (f) provide, as appropriate, the information referred to in sub-paragraphs (c), (d) and (g) above to such non-party observers;
- (g) perform such other functions for the achievement of the purposes of the Protocol as may be assigned to it by the Parties.

ARTICLE 12: FINANCIAL PROVISIONS

1. The funds required for the operation of this Protocol, including those for the functioning of the secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.

2. The Parties at their first meeting shall ^{by consensus} unanimously adopt financial rules for the operation of this Protocol.

ARTICLE 13: RELATIONSHIP OF THIS PROTOCOL TO THE CONVENTION

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

ARTICLE 14: SIGNATURE

This Protocol shall be open for signature by States and by regional economic integration organizations at Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 15 September 1988.

ARTICLE 15: ENTRY INTO FORCE

- eleven (th)*
1. This Protocol shall enter into force on the same date as the Convention enters into force, provided that at least [nine] instruments of ratification, acceptance, approval of or accession to the Protocol have been deposited [by States or regional economic integration organizations representing at least sixty percent of 1986 global production of the controlled substances]. In the event that [nine] such instruments have not been deposited by the date of entry into force of the Convention, this Protocol shall enter into force on the [ninetieth] day following the date of deposit of the [ninth] instrument of ratification, acceptance, approval of or accession to the Protocol [by States or regional economic integration organizations representing at least sixty per cent of 1986 global production of the controlled substances].
 2. For the purposes of paragraph 1, any instrument deposited by a regional economic integration organization referred to in Article 12 of the Convention shall not be counted as additional to those deposited by member States of such organizations.
 3. After the entry into force of this Protocol, any State or regional economic integration organization referred to in Article 12 of the Convention shall become a Party to it on the [ninetieth] day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

ARTICLE 16: RESERVATIONS

No reservations may be made to this Protocol.

ARTICLE 16BIS: WITHDRAWAL

1. For purposes of this protocol, the provisions of Article 19 of the Convention relating to withdrawal shall apply except with respect to parties referred to in paragraph 1 of Article 5. Such parties may withdraw from this protocol, by giving written notification to the Depository, four years after assuming the obligations specified in paragraphs 1 to 4 of Article 2.
2. Any such withdrawal shall take effect upon expiry of one year, after the date of its receipt by the Depository, or on such later date as may be specified in the notification of the withdrawal.

ARTICLE 17: AUTHENTIC TEXTS

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT HAVE SIGNED THIS PROTOCOL,

DONE AT MONTREAL THIS.....DAY OF

- - - - -

ANNEX A

CONTROLLED SUBSTANCES

Group	Substance		Ozone Depleting Potential (ODP)
Group I			
Fully halogenated Chlorofluorocarbons	CFC-11	CFCl_3	1.0
	CFC-12	CF_2Cl_2	1.0
	CFC-113	$\text{C}_2\text{F}_3\text{Cl}_3$	0.8
	CFC-114	$\text{C}_2\text{F}_4\text{Cl}_2$	1.0
	CFC-115	$\text{C}_2\text{F}_5\text{Cl}$	0.6
Group II			
Fully halogenated Bromine-containing	Halon-1301	CF_3Br	10.0
	Halon-1211	CF_2BrCl	3.0
	Halon-2402	$\text{C}_2\text{F}_4\text{Br}_2$ (to be determined)	

Considering the importance of promoting international co-operation in the research and development of science and technology of the control and reduction of ozone depleting substances emissions, bearing in mind, in particular, the needs of developing low-consuming countries,

Article 2.

1. Each Party shall ensure that within 12 months of the 1st day of the month following the entry into force of this Protocol, consumption within its jurisdiction of the controlled substances in Group I of Annex A does not exceed its level of consumption in 1986. Each Party producing the controlled substances in Group I shall at the same time ensure that its production of these substances does not exceed its level of production in 1986, except that its production may increase by no more than [10%] above the 1986 level, in order to meet the demands for consumption of Parties under the provisions of Article 5 and for industry rationalisation between Parties.

2. Each Party shall ensure that within three years following the entry into force of the Protocol, consumption within its jurisdiction of fully halogenated bromine-containing alkanes listed in Group II of Annex A does not exceed its level of consumption in 1986. Each Party producing these substances shall ensure at the same time that its production of these substances shall not exceed its level of production in 1986, except that its production may increase by no more than [10%] above the 1986 level in order to meet the demands for consumption of Parties under the provisions of Article 5 and for industry rationalisation between Parties. The mechanism for implementing this measure will be decided by the Parties at their first meeting following the first scientific review.

3. Each Party shall ensure that by 1 January 1994 consumption within its jurisdiction of the controlled substances in Group I of Annex A does not exceed 80% of the level of consumption in 1986. Each Party producing the controlled substances in Group I shall at the same time ensure that its production of these substances does not exceed 80% of its level of production in 1986, except for production needed to meet the demands for consumption by Parties under the provisions of Article 5 and for industry rationalisation between Parties; in meeting these demands its production shall not exceed [90%] of the 1986 level.

- 3 -

4. Each Party shall ensure that by 1 January 1999 consumption within its jurisdiction of the controlled substances in Group I of Annex A does not exceed 50% of the level of consumption in 1986. Each party producing the controlled substances in Group I shall at the same time ensure that the production of these substances does not exceed 50% of its level of production in 1986, except for production needed to meet the demands for consumption by Parties under the provisions of Article 5 and for industry rationalisation between Parties; in meeting these demands its production shall not exceed [65%] of the 1986 level. This paragraph will apply unless the parties decide otherwise by a two-thirds majority [representing at least [60%] [two-thirds] of the estimated global consumption of the controlled substances of the Group I.] This decision will be made in the light of the assessments referred to in Article 6.

4bis. Parties whose level of production in 1986 of the controlled substances in Group I of Annex A was less than 25 kt/yr may transfer to any other Party production in excess of the limits set out in paragraphs 1, 3 and 4 above provided that the total combined production of these Parties does not exceed the production limitations set out in this Article.

4ter. Notification of any transfer of production for industry rationalisation under paragraphs 1-4bis above shall be sent to the Secretariat, no later than the time of the transfer of production.

5. (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether: (i) adjustments to the calculated ozone depleting potentials specified in Annex A should be made and, if so, what adjustments; and (ii) adjustments and further reductions of production or consumption of the controlled substances from 1986 levels should be undertaken and, if so, the scope, amount, and timing of any such adjustments;
- (b) Proposals for such adjustments shall be communicated to the Parties by the secretariat at least six months before the meeting of the Parties at which they are proposed for adoption;

../4.

- 4 -

- (c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall as a last resort be adopted by a [two-thirds majority] [majority] vote of the Parties present and voting [representing at least [60%] [two-thirds] of the total consumption of the controlled substances of the Parties];
- (d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depository. Unless otherwise provided in the decisions, the decisions shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depository.

5bis

- (a) Based on the assessments made pursuant to Article 6 and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide
- (i) whether any substances, and if so which, should be added to or removed from any annexes to this protocol; and
 - (ii) the mechanism, scope and timing of the control measures that should apply to those substances;
- (b) Any such decision shall become effective, provided that it has been accepted by a two-thirds majority vote of Parties present and voting [representing at least [60%] [two-thirds] of the total consumption of the controlled substances of the Parties].

.../5.

- 5 -

[6. Any Parties which are Member States of a regional economic integration organisation as defined in Article 1(6) of the Convention may agree that they shall jointly [as well as individually] fulfil their obligations under this Article provided that neither their total combined production nor their total consumption exceed the levels required by this Article.

The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in production or consumption with which the agreement is concerned.]

7. Notwithstanding the provisions contained in this Article, Parties may take more stringent measures than those required by this Article.

Article 2 para 6 (Proposed by EC 9/11)
P.M.

A regional economic integration organisation and the member States of such an organisation which are Parties to this Protocol shall decide, in accordance with Article 13 paragraph 2 of the Convention, on their respective responsibilities for the performance of their obligations under this Protocol.

in accordance with the treaty or other instrument constituting the organisation:

and their respective obligations ~~shall~~^{may} be carried out jointly or individually accordingly:

in a manner that ensures that neither their total combined production nor ~~their~~ their total combined consumption shall exceed the levels required by [Article 2] [this Article].

THE WHITE HOUSE
WASHINGTON

Date: 9/11/87

TO: Ralph Bledsoe

FROM: NANCY J. RISQUE

- ☐ Action
- ☐ Your Comment
- ☐ Let's Talk
- ☒ FYI

Comments on The Montreal UNEP Negotiations

A protocol formula which combines consumption limits with production limits that are 10-15% higher is acceptable, although not ideal, for U.S. industry. Problems with the current draft protocol include:

- o Setting aside 10-15% for future production to meet LDC needs, while designed to provide assurance that supplies will be available, will in fact demonstrate to them that their long-term needs may not be met. This could result in:

- Reluctance on their part to sign the protocol,
- Impetus to construct additional production capacity, and
- Less willingness to adopt substitute products when they become available.

- o Production limits currently contained in the draft give the EEC effective control over exports and trade because:

- The current formula translates into providing the EEC with three times the export capacity of the U.S.
- About 40% of EEC production now goes to internal aerosol uses which could be diverted to export markets giving the EEC competitive advantages over the U.S. , plus bargaining leverage with the LDCs.

There are several possible ways to resolve these difficulties:

- o A straight consumption formula, combined with LDC exemptions, would not add significant growth, would assure necessary supplies to the LDCs and would permit more equitable treatment of U.S. producers. This approach could prove quite difficult, given the current status of the negotiations.

- o The production limits could be further increased, although the perception created by specific production in excess of consumption reduces acceptability to all interest groups.

- o Address LDC needs by providing for periodic reviews to ensure that LDC growth is met without construction of new plant capacity.

Finally, the EEC request for production and consumption swaps within the EEC creates an additional concern. This provides advantages of operating flexibility and economic efficiency during rationalization of facilities as production is being phased down. This concession should not be made without equivalent benefits for the U.S. industry, or a trade-off that meets some other U.S. negotiating objective.



United States Department of State

Bureau of Oceans and International
Environmental and Scientific Affairs

Washington, D.C. 20520
September 11, 1987

TO: DS/PRD - Richard Feltault

FROM: OES/ENV - Andrew Sens *AS*

SUBJECT: High Level Visitors for Ozone Meeting in
Room 7220, Deputy Secretary's Conference Room
Saturday Sept. 12, 10:30 A.M.

1. Participants have been requested to come to the C Street entrance. They are:

EPA	Lee Thomas Linda Fisher Elaine Claussen	State invitees: L John Crook Peter Fluorney
· USTR	Alan Woods Robert Reinstein Irving Fuller	E Martin Bailey
Commerce	Michael T. Kelley Michael J. Kelly , <i>ROBERT HAUSENFLUCK</i>	<i>Nm</i>
Justice	Steven Galebach Thomas Hookano	
White House	Ralph Bledsoe , <i>JAN MARES</i> Bob Johnson	<i>Nh</i>
OMB	Robert Fairweather David Gibbons Norman Hartness	
DOE	Richard Bradley Edward Williams Mary Walker	
Interior	Becky Norton Dunlop Martin Smith Donald Pearlman	

2. Escort Officers:

Alan Krause and Nicholas MacNeil

647-9266

OES/ENV:NMacNeil
161



United Nations Environment Programme



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12 September 1987
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Conference of Plenipotentiaries on the
Protocol on Chlorofluorocarbons to the
Vienna Convention for the Protection of
the Ozone Layer

Montreal, 14-16 September 1987

Dawson 4844 Gibbons 4586 ✓
Interior - 43-4863 - *effective protocol*
OSTP Beverly - 44-524-8775
ing 7-3237
- Kelly - 377-0128 - 65 1600 4002 PM

USSR
S. Korea
Malaysia
chemicals - option a) ozone depletion potential b) extend timing
these countries
Taiwan
China
India
chemicals
all
517 286

, Draft Montreal Protocol on Substances that Deplete the Ozone Layer

DRAFT MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

PREAMBLE

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer,

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,

Conscious of the potential climatic effects of emissions of these substances,

Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,

Determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations,

Acknowledging that special provision is required to meet the needs of developing countries for these substances,

Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,

Considering the importance of promoting international co-operation in the research and development of science and technology relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind in particular the needs of developing countries,

HAVE AGREED AS FOLLOWS:

ARTICLE 1: DEFINITIONS

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22nd March 1985.
2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol.
3. "Secretariat" means the secretariat of the Convention.
4. "Controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture. It excludes, however, any such substance or mixture which is in a manufactured product other than a container used for the transportation or storage of the substance listed.
5. "Production" means the amount of controlled substances produced minus the amount destroyed by technologies to be approved by the Parties.
6. "Consumption" means production plus imports minus exports of controlled substances.
7. "Calculated levels" of production, imports, exports and consumption means levels determined in accordance with Article 3.
8. "Industrial rationalization" means the transfer of existing production between Parties for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

ARTICLE 2: CONTROL MEASURES

1. Each Party shall ensure that within 12 months of the first day of the month following the date of entry into force of this Protocol, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed its calculated level of consumption in [1986] [1990]. By the end of the same period, each Party producing one or more of the controlled substances in Group I shall ensure that its calculated level of production of these substances does not exceed its calculated level of production in [1986] [1990], except that such level may have increased by no more than [10 per cent] based on the [1986] [1990] level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties.

2. Each Party shall ensure that within three years of the date of entry into force of this Protocol, its calculated level of consumption of the controlled substances listed in Group II of Annex A does not exceed its calculated level of consumption in [1986] [1990]. Each Party producing one or more of these substances shall ensure that its calculated level of production of these substances does not exceed its calculated level of production in [1986] [1990], except that such level may have increased by no more than [10 per cent] based on the [1986] [1990] level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties. The mechanisms for implementing these measures shall be decided by the Parties at their first meeting following the first scientific review.

3. Each Party shall ensure that by 1 January 1994 its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed annually 80 per cent of its calculated level of consumption in [1986] [1990]. Each Party producing one or more of these substances shall by the same date ensure that its calculated level of production of the substances does not exceed annually 80 per cent of its calculated level of production in [1986] [1990]. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, its calculated level of production may exceed that limit by up to 10 per cent of its calculated level of production in [1986] [1990].

4. Each Party shall ensure that by 1 January 1999 its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed 50 per cent of its calculated level of consumption in [1986] [1990]. Each Party producing one or more of these substances shall by the same date ensure that its calculated level of production of these substances does not exceed 50 per cent of its calculated level of production in [1986] [1990]. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, its calculated level of production may exceed that limit by up to 15 per cent of its calculated level

of production in [1986] [1990]. This paragraph will apply unless the Parties decide otherwise at a meeting by a two-thirds majority of Parties present and voting [representing at least [0 per cent] [60 per cent] [two-thirds] of the total calculated level of consumption of the Parties of these substances]. This decision shall be [examined] [made] in the light of the assessments referred to in Article 6.

[4bis. Any Party whose calculated level of production in [1986] [1990] of the controlled substances in Group I of Annex A was less than 25 kilotonnes/year may, for the purposes of industrial rationalization, transfer to or receive from any other Party, production in excess of the limits set out in paragraphs 1, 3 and 4 provided that the total combined calculated levels of production of the Parties concerned does not exceed the production limits set out in this Article.]

4ter. Any transfer of production pursuant to paragraph 4bis shall be notified to the secretariat, no later than the time of the transfer.

5. (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:
- (i) adjustments to the calculated ozone depleting potentials specified in Annex A should be made and, if so, what adjustments; and
 - (ii) further adjustments and reductions of production or consumption of the controlled substances from [1986] [1990] levels should be undertaken and, if so, the scope, amount and timing of any such adjustments.
- (b) Proposals for such adjustments shall be communicated to the Parties by the secretariat at least six months before the meeting of the Parties at which they are proposed for adoption.
- (c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting [representing at least [0 per cent] [60 per cent] [two-thirds] of the total consumption of the controlled substances of the Parties].
- (d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depository. Unless otherwise provided in the decisions, the decisions shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depository.
- 5bis.(a) Based on the assessments made pursuant to Article 6 and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:
- (i) whether any substances, and if so which, should be added to or removed from any annexes to this Protocol; and

(ii) the mechanism, scope and timing of the control measures that should apply to those substances;

(b) Any such decision shall become effective, provided that it has been accepted by a two-thirds majority vote of the Parties present and voting [representing at least 10 per cent] [60 per cent] [two-thirds] of the total calculated level of consumption of the controlled substances of the Parties].

[6. Any Parties which are Member States of a regional economic integration organization as defined in Article 1(6) of the Convention may agree that they shall jointly fulfil their obligations under this Article provided that neither their total combined production nor their total combined consumption exceed the levels required by this Article.

The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in production or consumption with which the agreement is concerned.]

7. Notwithstanding the provisions contained in this Article, Parties may take more stringent measures than those required by this Article.

ARTICLE 3: CALCULATION OF CONTROL LEVELS

For the purposes of Articles 2 and 5 each Party shall, for each Group of substances in Annex A, determine its calculated levels of:

- (a) production of the controlled substances, by:
 - (i) multiplying its annual production of each controlled substance by the ozone depleting potential specified in respect of it in Annex A; and
 - (ii) adding together, for each such Group, the resulting figures;
- (b) imports and exports, respectively, of the controlled substances by following, mutatis mutandis, the procedure set out in subparagraph (a); and
- (c) consumption of the controlled substances, by adding together its calculated levels of production and imports and subtracting its calculated level of exports as determined in accordance with subparagraphs (a) and (b), provided that beginning on 1 January 1993 any export of controlled substances to non-Parties shall not be subtracted in calculating the consumption level of any Party.

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES

1. Within one year of the entry into force of this Protocol, each Party shall ban the import of the controlled substances from any State not Party to this Protocol.
- 1.bis Beginning on January 1, 1993, no Party operating under Article 5 may export any controlled substances to any State not Party to this Protocol.
2. Within three years of the entry into force of this Protocol, the Parties shall, in accordance with Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances. Within one year of the annex having become effective, Parties not having objected to it shall ban the import of such products from any State not Party to this Protocol.
3. Within five years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting, from States not Party to this Protocol, the import of products produced with, but not containing, controlled substances. If determined feasible, the Parties shall, in accordance with Article 10 of the Convention, elaborate in an annex a list of such products and within one year of the annex having become effective, Parties not objecting to it shall ban or restrict the import of the products from any State not Party to this Protocol.
4. Each Party shall discourage the export, to any State not Party to this Protocol, of technology for producing and utilizing the controlled substances.
5. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not Party to this Protocol of products, equipment, plants or technology that would facilitate the production of the controlled substances.
6. Paragraphs 4 and 5 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of the controlled substances, promote the development of alternative substances or otherwise contribute to the reduction of emissions of controlled substances.
7. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, 2 and 3 may be permitted from any State not Party to this Protocol if that State is determined by a meeting of the Parties to be in full compliance with Article 2 and this Article and has submitted data to that effect, as specified in Article 7.

ARTICLE 5: SPECIAL SITUATION OF DEVELOPING COUNTRIES

1. Any developing country Party whose annual calculated level of consumption of the controlled substances is less than 0.3 kilogrammes per capita on the date of the entry into force of the Protocol for it or any time thereafter within ten years of the date of entry into force of the Protocol shall, in order to meet its basic domestic needs, be entitled to delay its compliance with the control measures set out in paragraphs 1 to 4 of Article 2 by ten years after that specified in those paragraphs, provided that such party shall not exceed an annual calculated level of consumption of 0.3 kilogrammes per capita. Any such country shall be entitled to use the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or the average of its annual calculated level of consumption of 0.3 kilogrammes per capita in those years, whichever is the lower, as the basis for its compliance with the control measures.

2. The Parties undertake to facilitate access to environmentally safe alternative substances and technology to developing country Parties and assist them to make expeditious use of such alternatives.

3. The Parties undertake to facilitate bilaterally or multilaterally the provision of subsidies, aid, credits, guarantees or insurance programmes to developing country Parties for the use of alternative technology and substitute products.

ARTICLE 6: ASSESSMENT AND REVIEW OF CONTROL MEASURES

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 on the basis of available scientific, environmental, technical, and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the secretariat, to the Parties.

ARTICLE 7: REPORTING OF DATA

1. Each Party shall provide to the secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances for the year 1986 or the best possible estimates of the data where actual data are not available.

2. Each Party shall provide statistical data to the secretariat on its annual production, [with separate data on amounts destroyed by technologies to be approved by the Parties], exports, and imports of these substances for the year during which it becomes a Party and for each year thereafter. It shall forward the data no later than nine months after the end of the year to which the data relate.

ARTICLE 7BIS: NON-COMPLIANCE

At their first regular meeting, the Parties shall consider and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.

**ARTICLE 8: RESEARCH, DEVELOPMENT, PUBLIC AWARENESS
AND EXCHANGE OF INFORMATION**

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:

- (a) best technologies for improving the containment, recovery, recycling or destruction of the controlled substances or otherwise reducing their emissions;
- (b) possible alternatives to the controlled substances, to products containing such substances, and to products manufactured with them;
- (c) costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of the controlled substances and other substances that deplete the ozone layer.

3. Within two years of the entry into force of this protocol and every two years thereafter, each Party shall submit to the secretariat a summary of the activities it has conducted pursuant to this Article.

ARTICLE 9: TECHNICAL ASSISTANCE

1. The Parties shall co-operate, taking into account in particular the needs of developing countries, in promoting, in the context of the provisions of Article 4 of the Convention, technical assistance to facilitate participation in and implementation of this Protocol.
2. Any Party or Signatory to this Protocol in need of technical assistance for the purposes of implementing or participating in it, may submit a request to the secretariat.
3. At their first meeting, the Parties shall begin deliberations on the means of fulfilling the obligations set out in Article 8 above, and paragraphs 1 and 2 of this Article including the preparation of workplans. Such workplans shall pay special attention to the needs and circumstances of the developing countries. States and regional economic integration organizations not party to the Protocol should be encouraged to participate in activities specified in such workplans.

ARTICLE 10: MEETINGS OF THE PARTIES

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.
2. Subsequent ordinary meetings of the Parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.
3. At their first meeting the Parties shall:
 - (a) adopt by consensus rules of procedure for their meetings;
 - (b) begin preparation of workplans pursuant to paragraph 3 of Article 9;
 - (c) adopt by consensus the financial rules;
 - (d) consider and approve the procedures and institutional mechanisms specified in Article 7Bis.
 - (e) establish the panels and terms of reference referred to in Article 6.
4. The functions of the meetings of the Parties shall be to:
 - (a) review the implementation of this Protocol;
 - (a)bis decide on the adjustments referred to in paragraph 5 of Article 2;
 - (a)ter decide on the addition to, insertion in or removal from annexes of substances and on related control measures in accordance with paragraph 5bis of Article 2;
 - (b) establish where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 8;
 - (c) review requests for technical assistance submitted pursuant to paragraph 2 of Article 9;
 - (d) review reports prepared by the secretariat pursuant to Article 11 (c);

- (e) assess, in accordance with Article 6, the control measures provided for in Article 2;
- (f) consider and adopt as required proposals for amendment of this Protocol;
- (g) consider and adopt the budget for implementation of this Protocol;
- (h) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

ARTICLE 11: SECRETARIAT

For the purposes of this Protocol the secretariat shall:

- (a) arrange for and service meetings of the Parties as provided for in Article 10;
- (b) receive and make available, upon request by a Party data provided pursuant to Article 7;
- (c) prepare and distribute to the Parties regularly reports based on information received pursuant to Articles 7 and 8;
- (d) notify the Parties of any request for technical assistance received pursuant to Article 9 so as to facilitate the provision of such assistance;
- (e) encourage non-parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of the Protocol;
- (f) provide, as appropriate, the information referred to in sub-paragraphs (c), (d) and (g) to such non-party observers;
- (g) perform such other functions for the achievement of the purposes of the Protocol as may be assigned to it by the Parties.

ARTICLE 12: FINANCIAL PROVISIONS

1. The funds required for the operation of this Protocol, including those for the functioning of the secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.
2. The Parties at their first meeting shall adopt by consensus financial rules for the operation of this Protocol.

ARTICLE 13: RELATIONSHIP OF THIS PROTOCOL TO THE CONVENTION

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

ARTICLE 14: SIGNATURE

This Protocol shall be open for signature by States and by regional economic integration organizations at Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 15 September 1988.

ARTICLE 15: ENTRY INTO FORCE

1. This Protocol shall enter into force on the first of January 1989, provided that at least eleven instruments of ratification, acceptance, approval or accession to the Protocol have been deposited by States or regional economic integration organizations [representing at least [0] [60] [90] percent of 1986 estimated global production of the controlled substances], and the provisions of paragraph 1 of Article 16 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled by that date, this Protocol shall enter into force on the ninetieth day following the date that these conditions have been fulfilled.

2. For the purposes of paragraph 1, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

ARTICLE 15BIS: PARTIES JOINING AFTER ENTRY INTO FORCE

Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after its entry into force, shall fulfil forthwith the sum of the obligations under Article 2 as well as under Article 4 that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force.

ARTICLE 16: RESERVATIONS

No reservations may be made to this Protocol.

ARTICLE 16BIS: WITHDRAWAL

1. For purposes of this protocol, the provisions of Article 19 of the Convention relating to withdrawal shall apply except with respect to parties referred to in paragraph 1 of Article 5. Such parties may withdraw from this protocol, by giving written notification to the Depository, four years after assuming the obligations specified in paragraphs 1 to 4 of Article 2.
2. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depository, or on such later date as may be specified in the notification of the withdrawal, and:

ARTICLE 17: AUTHENTIC TEXTS

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT HAVE SIGNED THIS PROTOCOL,

DONE AT MONTREAL THIS.....DAY OF

ANNEX A

CONTROLLED SUBSTANCES

Group	Substance	Ozone Depleting Potential (ODP)*
Group I		
	CFCl ₃ (CFC-11)	1.0
	CF ₂ Cl ₂ (CFC-12)	1.0
	C ₂ F ₃ Cl ₃ (CFC-113)	0.8
	C ₂ F ₄ Cl ₂ (CFC-114)	1.0
	C ₂ F ₅ Cl (CFC-115)	0.6
Group II		
	CF ₃ Br (halon-1301)	10.0
	CF ₂ BrCl (halon-1211)	3.0
	C ₂ F ₄ Br ₂ (halon-2402) (to be determined)	

* These ODP values are estimates based on existing knowledge and will be reviewed and revised periodically.